



CalCAP Lender FAQs



ELIGIBILITY

1. Are business start-ups or non-profit organizations eligible?

YES. CalCAP loans can assist start-ups and non-profit organizations. However, all qualified businesses must have at least one paid employee and satisfy all the requirements of a “Qualified Business” and a “Small Business Concern” defined in California Code of Regulations (CCR), Title 4, Section 8070 (r) and (v).¹

2. Are charter schools eligible?

NO. The State Legislature authorized charter schools as an alternative to traditional public schools. The enabling legislation contemplates that charter schools are included in the public school system. In local jurisdictions, charter schools operate as public entities, and therefore they are not qualified businesses.

3. Is refinancing eligible?

YES AND NO. A lender may use a CalCAP loan to refinance debt held by another non-affiliated lender. A lender may also use a CalCAP loan to refinance one of its existing CalCAP loans. However, a lender may not use a CalCAP loan to refinance one of its existing non-CalCAP loans except to the extent that the loan amount is increased [Section 8070(s)(3)]. Thus, a lender may enroll in CalCAP only the increased loan amount of any refinanced preexisting non-CalCAP debt held by that lender. For example, a lender previously loaned \$50,000 to a qualified business, but did not enroll the loan with CalCAP. It will now refinance the existing debt and loan an additional \$10,000 to the qualified business. The lender will only be able to submit a CalCAP loan enrollment requesting \$10,000 loss coverage for the \$60,000 loan.

4. Is a loan for the financing of a real estate investment eligible?

NO. Loans for “passive” real estate investments cannot be enrolled in CalCAP [Section 8070(s)]. Defined in Section 8070(m), “Passive Real Estate Ownership” means the ownership of real estate for the purpose of deriving income from speculation, trade or rental, but does not include any of the following circumstances:

- a. The ownership of that portion of real estate being used or intended to be used for the operation of the business of the owner of the real estate (the Borrower must be using or planning to use upon acquisition or construction of a building, at least 51 percent of the space in an existing building or at least 67 percent of the space in a newly constructed building); or
- b. The ownership of real estate for the purpose of construction or renovation, until the completion of the construction or renovation phase.

¹ All regulatory references are to Title 4 of the California Code of Regulations.

LOAN ENROLLMENT

1. Can I “pre-qualify” a loan enrollment with CalCAP before making the loan?

YES. CalCAP encourages participating lenders to contact CalCAP staff if they are unsure if a borrower or a proposed loan satisfies the enrollment requirements for a “Qualified Business” or a “Qualified Loan” in Section 8070. However, CalCAP lenders are still required to submit the loan enrollment form for final review and approval by the Executive Director of the California Pollution Control Financing Authority or his or her designee.

2. Can I enroll a CalCAP loan with a borrower who is also receiving an SBA loan?

Yes. CalCAP complements SBA programs with its full loan loss protection. For example, a CalCAP lender can make a \$100,000 loan and enroll it with SBA. SBA may protect \$85,000 (85%) of the total loan amount. The CalCAP lender can enroll the uncovered SBA amount of \$15,000 with CalCAP, thereby providing the lender 100% loan loss protection for the loan.

3. Must I enroll the entire loan amount with CalCAP?

NO. The lender determines how much of its loan to enroll with CalCAP. For example, the lender may loan \$50,000 to the borrower, but it may choose to enroll only \$10,000 of the loan with CalCAP. In case of a loan default, the lender can only recover any outstanding amount from that portion of the loan that was enrolled with CalCAP.

4. When do I notify CalCAP if I have extended or renewed a CalCAP enrolled loan?

A lender must submit a “CalCAP Notification of Change” form to CalCAP within 60 days after the extension or renewal of the CalCAP loan [Section 8072(g)]. If the enrolled portion of the loan amount has increased, then the lender must submit a new loan enrollment form with evidence of the additional borrower and lender loan premium contributions based on the increased CalCAP covered portion of the loan.

LOAN LOSS RESERVE AND CLAIMS FOR REIMBURSEMENT

1. Where is the loan loss reserve maintained?

Loan loss reserve accounts are held by the CalCAP trustee, currently the Bank of New York, or by a CalCAP lender if the lender meets the following regulatory requirements [Section 8073(c)]:

- a. The lender does not charge for the establishment or maintenance of the loss reserve account.
- b. The lender, at the time the reserve is established, does not have a rating below “75” from IDC Financial Publishing Inc.’s Bank Financial Quarterly, does not have S & L-Savings Bank Financial Quarterly, or Credit Union Financial Profiles, or a

rating below “11” from Sheshunoff Information Services Inc.’s Bank Quarterly or S & L Quarterly.

Additionally, the loan loss reserve account must be a federally insured, interest-bearing account [Section 8073(c)].

2. How much of a CalCAP loan premium must I charge the borrower?

The CalCAP lender must charge 2 to 3.5 percent of the enrolled loan amount to the borrower for deposit in the CalCAP loan loss reserve account [Section 8070(d)]. The CalCAP lender determines the loan premium amount to charge the borrower.

3. Is there a way for a borrower not to pay the CalCAP loan premium?

YES. CalCAP has Independent Contributors, entities authorized by CAP to pay the borrower’s loan premium to the lender’s loan loss reserve account. Currently, the California Integrated Waste Management Board and the South Coast Air Quality Management District are eligible Independent Contributors. Forms describing the eligible businesses are available from CalCAP representatives or on our website <http://www.treasurer.ca.gov/cpcfai/>.

4. How much does CalCAP contribute to the lender’s loan loss reserve account?

Generally, CalCAP matches the combined amount of the loan premiums contributed by the borrower and the lender. For example:

ENROLLED LOAN AMOUNT	=	\$100,000
Borrower premium (2%)	=	2,000
Lender premium (2%)	=	2,000
CalCAP contribution (4%)	=	<u>4,000</u>
Total loss reserve contribution	=	\$ 8,000

However, if the small business is located in a State-designated Enterprise Zone or if the lender has made less than \$500,000 in total enrolled CalCAP loans, then CalCAP will contribute 150% of the combined amount of the loan premiums contributed by the borrower and the lender per Section 8070(j). For example, if the borrower and the lender each contribute 2% of the enrolled loan amount and if the borrower’s business is located in an Enterprise Zone then CalCAP will contribute 6% of the enrolled loan amount as illustrated:

ENROLLED LOAN AMOUNT	=	\$100,000
Borrower premium (2%)	=	2,000
Lender premium (2%)	=	2,000
CalCAP contribution (6%)	=	<u>6,000</u>
Total loss reserve contribution	=	\$ 10,000

A list of the State Enterprise Zones can be found on the Internet at:
www.hcd.ca.gov/fa/cdbg/ez/enterprise/.

5. *When should I file a claim for reimbursement on a CalCAP loan?*

A lender must submit a claim for reimbursement within 30 days of charging off all or part of a defaulted loan. The lender may defer making a claim for up to 180 days from the date of charge off, but must still notify CalCAP within 30 days of the charge off. The lender may file a claim for reimbursement of a loss before the liquidation of collateral or the realization of personal or other financial guarantees, or recovery of outstanding amounts from other sources [Section 8074(a-d)]. However, the lender must reimburse the loan loss reserve account for any recovery made through loan collection activities. In addition, Section 8072(h) requires the lender to notify CalCAP of the workout status on CalCAP loans for which the charge off status is not yet clear. CalCAP lenders have up to 240 days from the initial notification of the workout status to inform CalCAP of the charge off.

6. *My bank may be merging this year. What happens to the CalCAP loan loss reserve account?*

The loan loss reserve account remains as a restricted-account that may only be used for the purposes of CalCAP as specified in Section 8073. The entire reserve may be transferred to the new lender if the lender meets the reserve requirements in Section 8073(c). Otherwise, the CalCAP trustee, Bank of New York, must maintain the reserve.

SMALL BUSINESS ASSISTANCE

1. *Does CalCAP provide business assistance services?*

YES. CalCAP and Pacific Community Ventures (PCV) have partnered to provide no-cost business advisory services to growing small businesses. PCV links eligible small businesses with experienced business professionals in one-on-one advising relationships for 6 to 12 month periods to address business-specific needs related to the company's growth.

PCV offices are currently located in San Francisco, Los Angeles, and San Diego. An additional office will open in Fresno in 2006. For more information, contact Pacific Community Ventures' San Francisco office at (415) 442-4300, the Los Angeles office at (323) 235-7001, and the San Diego office at (619) 516-2262. Visit their website at www.pacificcommunityventures.org.